

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ESTATE OF VIRGINIA A. BATES—
DECEASED AND TIMOTHY BATES,**

Plaintiff,

V.

**U.S. BANK, N.A. AND SHELLPOINT
MORTGAGE SERVICING, LLC,**

Defendants.

CIVIL ACTION NO. 4:20-cv-00831

RESPONSE IN COMPLIANCE WITH ORDER (DOC. 26)

Defendants/Counter-Plaintiffs U.S. Bank, N.A. and Shellpoint Mortgage Servicing, LLC (“Defendants”) file this Response to the Court’s Order of July 21, 2021 (Doc. 26) regarding additional briefing on the Proposed Order for Foreclosure and would show as follows:

1. The total payoff of the loan as of June 30, 2021 is \$153,956.85, as demonstrated in the Payoff Quote attached as **Exhibit A**. The breakdown of amounts owed is as follows:

Projected Payoff Date	6/30/2021
Principal Balance	\$75,394.71
Interest To 6/30/2021	\$34,509.88
Fees	\$15,132.89
Prepayment Penalty	\$0.00
Release Fees	\$20.00
Funds owed by borrower	\$28,899.37
Funds owed to borrower	\$0.00
Total Payoff	\$153,956.85
Per diem	\$14.95

2. As demonstrated above, the reason for the charges incurred over and above the unpaid principal balance is primarily attributable to interest, fees, and funds owed by the borrower

(also known as escrow items for tax and insurance payments). Specifics regarding the fee portion are as follows:

<u>FEE DETAILS</u>	
<u>Description</u>	<u>Amount</u>
Late Charge Payment	\$708.00
BPO/Aprsl Cost	\$997.00
Property Inspection	\$1,208.00
FC Costs	\$742.50
Attorney Cost	\$9,593.29
FC Costs	\$1,884.10
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	\$15,132.89

3. Importantly, this delinquent loan is due for the December 1, 2015, payment and all payments thereafter.¹ This means that while no monthly payments have been made, interest has been accruing at 8.8% for nearly six years. Further, Plaintiff has not made insurance or property tax payments for some time, and Defendants have been forced to pay for those charges in order to preserve their collateral, as demonstrated in **Exhibit B**.

4. Defendants provided Plaintiff's counsel with the proposed Revised Order for Foreclosure along with the Exhibits thereto on the morning of Monday, August 16, 2021, via email. Counsel for Defendants attempted to contact counsel for Plaintiff via telephone on August 18th and followed up via email on the same day. On August 19th, counsel for Plaintiff simply informed Defendants that his client would not allow him to agree to the Revised Order. Despite a request

¹ **Exhibit A**.

for more information from Defendants, Plaintiff declined to provide any specifics as to his disagreement with the Revised Order but did not dispute any particular calculation or charge. After receiving this email, counsel for Defendants attempted to reach counsel for Plaintiff by telephone on August 19th but was unable to reach him to discuss the issue further.

For these reasons, Defendants/Counter-Plaintiffs U.S. Bank, N.A. and Shellpoint Mortgage Servicing, LLC respectfully request the Court enter the Proposed Revised Order for Foreclosure submitted herewith, and for such other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/ Melissa Gutierrez

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CERTIFICATE OF CONFERENCE

Defendants' counsel provided Plaintiff's counsel with the proposed Revised Order for Foreclosure along with the Exhibits thereto as outlined in paragraph 4 above. The undersigned attempted to confer with Plaintiff's counsel multiple times thereafter as to any specific objections to the figures being provided, but received no response or detail.

/s/ Melissa Gutierrez
Melissa Gutierrez

CERTIFICATE OF SERVICE

I certify that on this 20th day of August, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send notice of electronic filing to the following counsel of record. I further certify that a true and correct copy of the foregoing has been served on all counsel of record as follows:

Via email: Erick.delarue@delaruelaw.com
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/s/ Melissa Gutierrez
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